



Notice of Intended Regulatory Action (NOIRA) Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-880
Regulation title	Child Support Enforcement Program
Action title	Incorporate 2003 and 2004 Code of Virginia amendments and clarify selected regulation sections
Document preparation date	February 16, 2005

This information is required for executive branch review and the Virginia Registrar of Regulations, pursuant to the Virginia Administrative Process Act (APA), Executive Orders 21 (2002) and 58 (1999), and the *Virginia Register Form, Style, and Procedure Manual*.

Purpose

Please describe the subject matter and intent of the planned regulatory action. Also include a brief explanation of the need for and the goals of the new or amended regulation.

The purpose of the proposed action is to update the current child support regulation impacted by 2003 and 2004 state legislation, and to amplify selected sections of the existing regulation. The current regulation encompasses all functions of the child support enforcement program including application, eligibility for services, location, paternity establishment, order establishment, enforcement, collection, distribution and case closure.

Legal basis

Please identify the state and/or federal legal authority to promulgate this proposed regulation, including (1) the most relevant law and/or regulation, including Code of Virginia citation and General Assembly chapter number(s), if applicable, and (2) promulgating entity, i.e., agency, board, or person. Describe the legal authority and the extent to which the authority is mandatory or discretionary.

Title 63.2 Welfare (Social Services) of the Code of Virginia places the responsibility for providing child support enforcement services with the Department of Social Services. The State Board of Social Services is given the authority to make rules and regulations in §63.2-217 of the Code of Virginia.

Substance

Please detail any changes that will be proposed. For new regulations, include a summary of the proposed regulatory action. Where provisions of an existing regulation are being amended, explain how the existing regulation will be changed. Include the specific reasons why the agency has determined that the proposed regulatory action is essential to protect the health, safety, or welfare of citizens. Delineate any potential issues that may need to be addressed as the regulation is developed.

The amendments to the regulation are essential to protect the health and welfare of children and their families, and are intended to improve the effectiveness of the child support enforcement program. Collection of child support debts benefits the citizens of the Commonwealth, particularly its children. Further, collection of delinquent child support in public assistance cases results in a reduction of legal debts to the state, thus contributing to the General Fund. Proposed changes being considered include the following:

1. All outdated code cites will be updated. All outdated references to the noncustodial & custodial parents will be updated.
2. 22VAC40-880-200. Determining the amount of the child support obligation.

Proposed changes to the regulation will outline DCSE requirements for consideration of self-employment tax paid in the computation of a support obligation. Parents must provide tax returns.

3. 22VAC40-880-250. Periodic reviews of the child support obligation.

22VAC40-880-270. Withholding of income.

Proposed changes to the regulation will conform state regulation to state law. Topics include treatment of unreimbursed medical/dental expenses and income withholding.

4. 22VAC40-880-350. Distraint, seizure and sale.

The proposed regulation will allow the Department to negotiate for payment in full from the noncustodial parent before seized property is returned to the noncustodial parent.

5. 22VAC40-880-620. Disbursement of Payments.

The proposed change to the regulation will give authority to the Department to not issue refund checks for less than one dollar. This provides greater cost effectiveness for the Department.

Alternatives

Please describe all viable alternatives to the proposed regulatory action that have been or will be considered to meet the essential purpose of the action.

It is the desire of the Department and of the Board of Social Services to improve delivery of child support services without making it overly burdensome. These amendments are necessary to amplify existing regulations and to conform current policy to 2003 & 2004 state legislation.

Family impact

Assess the potential impact of the proposed regulatory action on the institution of the family and family stability.

The promulgation of the proposed regulations will enhance the Department's ability to collect child support owed to families. Increased child support collections through various enforcement remedies reduce families' reliance on public assistance. By making parents, not the State, responsible for their children, the Department, through its enforcement program, creates greater stability and autonomy for families striving to be self-sufficient.